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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

In re: VIAGRA (SILDENAFIL CITRATE)  
AND CIALIS (TADALAFIL) PRODUCTS  
LIABILITY LITIGATION

This Document Relates to: ALL ACTIONS

Master File No.: 3:16-md-02691-RS

**DECLARATION OF EDWARD O.  
GRAMLING, ESQ. IN SUPPORT OF  
PLAINTIFFS' ADMINISTRATIVE  
MOTION TO FILE UNDER SEAL  
EXHIBITS TO JOINT LETTER BRIEF  
REGARDING PFIZER DOCUMENTS  
WITHHELD AS PRIVILEGED AND  
PLAINTIFFS' REQUEST FOR RANDOM  
SAMPLING**

The Honorable Sallie Kim

I, Edward O. Gramling, Esq., declare and state as follows:

1           1.       I am Discovery Counsel responsible for litigation discovery matters at Pfizer Inc.  
2 ("Pfizer"). If called upon to testify as to the matters set forth herein, I could and would  
3 competently testify thereto as to the matters set forth in this declaration that are personally  
4 known to me to be true. As to those matters stated on information and belief, I would  
5 competently testify thereto, as I believe those matters to be true. Pursuant to Civil Local Rule  
6 79-5, I make this declaration in support of Plaintiffs' Administrative Motion to File Under Seal,  
7 dated July 26, 2017.

8           2.       Plaintiffs' motion seeks leave to file under seal two documents that are  
9 referenced in the parties' Joint Letter Brief Regarding Pfizer Documents Withheld As  
10 Privileged and Plaintiffs' Request for Random Sampling, filed on July 20, 2017:

- 11           a.       Defendant Pfizer's Partially Privileged Document Log;  
12           b.       Defendant Pfizer's Completely Privileged Document Log.

13           3.       Pfizer has designated these documents as "Confidential" under the terms of the  
14 parties' stipulated protective order in this matter because the privilege logs identify and discuss  
15 documents that are themselves confidential and proprietary. Entries on the privilege logs  
16 discuss confidential Pfizer matters relating to a wide range of topics, including, *inter alia*,  
17 confidential internal communications between Pfizer employees, confidential communications  
18 with regulatory authorities, and other internal information regarding the development, testing  
19 and regulation of Pfizer products that would put Pfizer at a competitive disadvantage if made  
20 public.

21           4.       Viagra, the Pfizer medication at issue in this litigation, currently is marketed for  
22 sale in the United States and around the world, and it has a number of competitor medications  
23 manufactured by other pharmaceutical companies. In the pharmaceutical industry, competitors  
24 can gain a distinct commercial advantage by gaining access to non-public information from  
25 another manufacturer. A trade secret is simply business information held in confidence that  
26 derives its value from not being known by the business's competitors. *See, e.g., In re*  
27 *Electronic Arts, Inc.*, 298 F. App'x 568, 569 (9th Cir. 2008). Courts have long protected trade  
28 secrets through sealing. *See, e.g., Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092,

1 1097 (9th Cir. 2016) (quoting *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 598-99 (1978)).

2 5. The privilege logs at issue reflect trade secrets and other confidential and  
3 proprietary information that would put Pfizer at a disadvantage if revealed to competitors.  
4 Accordingly, they warrant protection from public disclosure by remaining under seal. The  
5 privilege logs are so pervaded with information sought to be protected from disclosure that  
6 redaction would be infeasible.

7 6. This Court has previously allowed privilege logs to be filed under seal where  
8 those logs provide detailed information about documents that are themselves confidential. *See*  
9 *Trujillo v. Jacquez*, No. C-10-05183, 2014 WL 4072062, at \*5-6 (N.D. Cal. Aug. 15, 2014).

10 I declare under the penalty of perjury under the laws of California that the foregoing  
11 statements are true and correct.

12 Executed this 31<sup>st</sup> day of July, 2017, at New York NY.

13  
14   
15 EDWARD O. GRAMLING